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SITUATION OF HUMAN RIGHTS IN THE TERRITORY OF THE FORMER YUGOSLAVIA

Periodic report submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 42 of Commission resolution 1995/89 of 8 March 1995

Situation in the region of Banja Luka, northern Bosnia and Herzegovina

Introduction

1. The world's attention was first called to the policy of "ethnic cleansing" in northern Bosnia and Herzegovina in the spring of 1992. The Commission on Human Rights condemned those practices for the first time in its resolution 1992/S-1/1, adopted on 14 August 1992.

2. The Special Rapporteur described those practices in his first report E/CN.4/1992/S-1/9 (paras. 6-23), as well as in following reports: E/CN.4/1992/S-1/10 (paras. 1, 6-8); A/47/666; S/24809 (paras. 8-27); E/CN.4/1993/50 (paras. 16-31, 82-89, 95-101); E/CN.4/1994/3 (paras. 5-42); E/CN.4/1994/4 (paras. 6, 43); E/CN.4/1994/47 (paras. 18, 75-76, 79-82, 84-85, 89-91, 98); E/CN.4/1994/110 (paras. 8-13, 40-44, 50, 73, 75, 226, 283-293); E/CN.4/1995/10 (para. 22); A/49/641-S/1994/1252 (paras. 11-24, 79, 87); E/CN.4/1995/57 (paras. 7-9).

3. The present report has been issued in response to the most recent stages of this campaign, taking place in the Banja Luka region of Bosnia and Herzegovina, which threatens to force from the territory virtually the entire remaining non-Serb population.

Background

4. Before the war Banja Luka and its environs used to be a multicultural and multi-ethnic region. Diverse religions were tolerated; therefore a large number of cultural and religious sites like mosques, churches and cathedrals existed in harmony. According to the pre-war 1991 census, the territory of what is now northern Bosnia and Herzegovina had a population which included 625,000 Serbs, 356,000 Muslims and 180,000 Croats. Estimates made by the Office of the United Nations High Commissioner for Refugees (UNHCR) place the total number of Serbs now at some 719,000, while Muslims number about 37,000 and Croats 30,000 - signifying a reduction by some 90 per cent of the local Muslim population and by 85 per cent of the Croat population since the beginning of the war. 1/ Nearly 3,000 refugees crossed into Croatia in the first three months of 1995, while hundreds of other persons have left for destinations elsewhere in Bosnia, including some 300 Muslims who arrived in central Bosnia via Turbe on 9 March 1995.

5. Since the beginning of the war a large number of mosques, including the renowned Tefterdarija and Ferhadija mosques, as well as many churches, have been destroyed or damaged.

6. It is important to note that the de facto Bosnian Serb authorities 2/ consistently refuse access by human rights monitors to territories controlled by them. The cease-fire agreements reached towards the end of 1994 included specific provision for international monitoring of the human rights situation throughout the territory of Bosnia and Herzegovina. While the authorities of that Republic have always displayed a willingness to cooperate without being obstructive in any way, the Bosnian Serb authorities have never implemented the commitments that they have undertaken.

Recent developments

7. The persecution of non-Serbs in and around Banja Luka reached a critical point in February 1995, when certain towns suffered sustained campaigns of violence directed principally against the Muslim inhabitants, and also, increasingly, against Bosnian Croats as well. Personal security has been most at risk in smaller outlying towns and villages, where gangs appear to be operating with impunity. In Gradiska, near the Croatian border, reliable reports were received of armed men in civilian dress, calling themselves policemen, systematically moving from house to house over the course of some 10 days, breaking in, demanding money and valuables and beating residents. At least two persons were shot and had to be hospitalized in serious condition.

8. Similarly, in villages near Kotor Vares, notably Dzube and Garici, small groups of armed men swept through on successive nights, plundering homes and beating inhabitants indiscriminately and severely, including women and elderly persons. One man was found the day after one attack, nearly unconscious and bleeding from the ears. Another family reported that the attackers broke into their home, threatened to rape one woman and held a knife to her child's throat, and left only after the family managed to scrape together DM 300 to hand over to them.

9. In the cities of Banja Luka, Prijedor and Sanski Most, familiar patterns of intimidation and discrimination have persisted unchecked in recent months. Interviews with recently-arrived refugees in camps in Croatia reveal great consistency in the experiences suffered by non-Serbs in these localities. Armed persons are reported to be entering homes and seizing what they want. Although such incursions can happen at any time, they are more common at night. According to numerous testimonies received by the Special Rapporteur, the night-time is worse, because it is never known what can happen. Some refugees recounted spending nights with neighbours in fields near their homes, in order to avoid harm from possible intruders.

10. On the streets, the non-Serb population, especially Muslims, report feeling highly vulnerable. One man testified that he would only venture outside in the company of Serb acquaintances and another said he had remained hidden at home for most of the past two years, while his wife went out to buy food, since it is safer for women than for men on the streets. Testimonies that people have remained hidden in their homes for weeks and months at a time are commonplace. Outside, non-Serbs are subject to random beatings and routine humiliations. In addition, men may be summarily detained at any time and held for service in forced-labour brigades.

11. There are encouraging reports that significant numbers of the local Serb population refuse to take part in the discriminating practices against the non-Serb population. Those Serbs, however, are also living under constant pressure from nationalistic groups.

12. Numerous refugees recently arrived in Croatia attested that telephone lines of households belonging to non-Serbs throughout the region have been disconnected. That measure greatly increases their sense of isolation. Orders have also reportedly been given, without explanation, to non-Serbs in several communities around Banja Luka to keep the front doors of their homes unlocked at all times.

13. Croats in the Banja Luka area have suffered an increase in violence in recent months, especially following increased military activity by Bosnian Croat HVO (Croatian Defence Council) forces in south-western Bosnia and Herzegovina at the end of 1994. As noted in the Special Rapporteur's report of 16 January 1995 (E/CN.4/1995/57, para. 9), some 30 Bosnian Croats were arrested in front of a church at Barlovci, near Banja Luka, while waiting for the start of Christmas services on 25 December 1994, and were subsequently taken by military police to army headquarters, where they were badly beaten. Reliable reports indicate that several small Croat villages south of Banja Luka were victimized early this year by roving gangs similar to those which have pillaged Muslim communities.

14. In the early morning hours of 28 February 1995, virtually the entire local leadership of the Muslim humanitarian organization Merhamet was arrested in a coordinated sweep by the de facto authorities in the cities of Banja Luka, Prijedor and Sanski Most. A total of 13 persons, several of whom are over 70 years of age, were taken into custody; 3 were released a few days later. At the time of issuing of this report, the remaining 10 were still being held in a military prison, reportedly charged by the de facto regime with the crime of espionage. Merhamet has long been active in the

former Yugoslavia, and recently has provided vital humanitarian assistance to Muslims and others throughout the region. The Special Rapporteur is deeply concerned for the welfare of the detained Merhamet leaders, whose arrests appear to have been politically motivated and who reportedly have been subjected to mistreatment while in prison. There is also cause for concern that their arrest will have an adverse impact on the distribution of humanitarian assistance in northern Bosnia and Herzegovina. The Special Rapporteur has sent a letter to Mr. Karadzic requesting the immediate release of those detainees. As of the date of the present report no answer has been received.

15. It has been reported that on 18 March 1995 de facto military authorities took some 200 Muslims of draft age from the Teslic municipality to an unspecified destination. Allegedly, their whereabouts are still unknown.

16. Some acts of violence against non-Serbs in the Banja Luka area are attributed by the victims and observers to members of local civilian or military security forces, while others are ascribed to so-called criminal elements. Some assaults appear to occur spontaneously, as a direct consequence of reverses suffered by Bosnian Serb forces on the battlefield. In any case, it is evident that as a rule, the de facto authorities condone the violence. Complaints made to these authorities of attacks against civilians routinely go unheeded, and there is scant evidence of measures being taken to protect threatened communities. One exception recently occurred in the Gradiska municipality, where persons allegedly responsible for the wave of attacks in late February were reportedly arrested in early March.

17. The persistent threat of violence only deepens the long-standing climate of hostility to which non-Serbs have been exposed in and around Banja Luka. Most Muslims and Bosnian Croats have long since been dismissed from their jobs, usually suffering cancellation of any pension benefits they may have accrued over the years. Some individuals report having their title to their homes summarily revoked. Non-Serb teenagers describe a fearful atmosphere in some secondary schools, where Serb classmates sometimes carry weapons and threats against Muslims and Bosnian Croats are commonplace.

18. Access to medical care is reported to be difficult for non-Serbs. One investigation attributed this mainly to discrimination against the poor rather than nationality-based discrimination: since non-Serbs have usually been deprived of their jobs and are not covered by health insurance, they have no means to pay and thus are excluded from basic care. 1/ Nevertheless, some refugees have reported that they were required to pay high fees in advance while Serbs frequently, on the basis of service in the military, enjoy a general entitlement to health care regardless of ability to pay.

Forced labour

19. An important phenomenon continuing unabated in northern Bosnia and Herzegovina has been the use on a large scale of civilians for unpaid forced labour. Persons required to perform this activity by the de facto authorities are men from as young as 16 to 65 years of age and more; recent reports suggest that childless women are also subject to the work requirement. Recruits are almost invariably members of the Muslim, Croat and Roma population.

20. Although the programme of forced labour appears well organized by the de facto authorities, the actual process of pressing individuals into the work brigades appears highly irregular: many reports have been received by the Special Rapporteur of men being seized by local authorities in their homes without warning, as happened to a group of some 25 men from one street in Banja Luka on a day in September 1994. Other reports have described non-Serbs being stopped on the streets and summarily dispatched to labour sites without any opportunity to notify relatives. This practice has been a major cause of persons' fear of emerging from their homes for months at a time.

21. Numerous testimonies confirm that forced-labour brigades are frequently deployed by the Bosnian Serb authorities at or near active military confrontation lines. They often remain at these locations for months at a time, working 12-hour shifts and more under extremely onerous conditions. Common tasks required of workers include digging trenches, moving supplies and evacuating dead and wounded combatants. Proximity to the fighting places members of these brigades at great risk. One refugee now in Croatia recounted how a grenade fell through the roof of his work team's shelter at a location near the Doboj front line one night, wounding a friend in the leg. After being given cursory medical treatment at a field hospital, the victim was returned soon thereafter to resume work. Reliable reports indicate that numerous members of work brigades have been killed or wounded in front line areas.

22. In early December 1994, a group of some 250 Croats and Muslims from the Banja Luka area were rounded up by military police and sent to the region around Glamoc and Grahovo, about 100 kilometres south of Banja Luka, where the Bosnian Croat HVO army was conducting offensive operations against Bosnian Serb positions. The men reportedly suffered verbal and occasional physical abuse at the hands of Serb soldiers, often went without regular meals and slept in roofless shelters or in the open. According to numerous reliable testimonies, members of these brigades were forced to dig trenches in front of Serb positions, in effect being made to serve as "human shields" against the advance of Croat forces. On the night of 23-24 December, an HVO offensive resulted in heavy artillery exchanges which reportedly caused the deaths of at least six of these civilian labourers. Some 48 others were found alive in captured territory and taken to the Bosnian Croat-held town of Livno; others were reportedly allowed by Bosnian Serb forces to return to the Banja Luka area only late in January 1995, after the fighting had decreased.

23. Labourers not dispatched to front lines by the de facto authorities are forced to perform arduous and often humiliating tasks elsewhere in northern Bosnia and Herzegovina. Among the most common of these activities are cutting firewood, harvesting crops and performing other agricultural chores, and even reportedly working in privately-owned factories, as always without pay. Non-Serbs of high professional status are frequently assigned manual chores such as sweeping streets and collecting rubbish. One recent refugee recounted how her husband was taunted by children who tossed litter from a school window as he cleaned the street below.

Departure procedures

24. Testimonies received by the Special Rapporteur from recently-arrived refugees indicate it is the forced-labour obligation as well as the virulence of the ongoing campaign of violence which have resulted in practically all

non-Serbs fervently wishing to leave the Banja Luka area at present. Much of the remaining Muslim and Bosnian Croat population is in the process of attempting to secure exit permits, and many hundreds of people have appealed to international agencies for help in arranging their immediate evacuation.

25. For persons unable to meet the high costs imposed for flight across the border into Croatia, the only alternative continues to be displacement into other areas of Bosnia and Herzegovina, for which the payment now being required is somehow smaller. Tens of thousands of Muslims and Bosnian Croats have taken this step since the beginning of the war.

26. Procedures imposed by the de facto authorities for departure to Croatia are complicated and typically result in the surrender of virtually all of the intending exile's assets to the authorities and to certain local agencies. Persons wishing to leave must apply through these agencies (one of which used to be the local Red Cross) and paying amounts ranging from DM 300 to 500 per person, and sometimes more. They must also pay fees amounting to several hundred DM to various municipal offices, and must pay for bus passage to the border with Croatia. Property owners are normally required to relinquish in writing their claim to their homes, without reimbursement. The Special Rapporteur has received testimonies from persons who sold everything they owned to pay for permission to depart. Valuables which people have managed to take with them have reportedly been confiscated at the crossing into Croatia by Bosnian Serb border guards.

27. Information recently received by the Special Rapporteur indicates that authorities in the capital of the so-called "Serbian Republic" in Pale have recently attempted to take control over the departure process from the local authorities in Banja Luka - a shift which may result in new restrictions on freedom of movement. Reportedly, permission of the military authorities must also be obtained in order to leave the territory. These developments apparently resulted in the turning back of one group of some 350 intending refugees at Gradiska, near the Croatian border, by Bosnian Serb police on 17 March, on the grounds that the group allegedly lacked the proper departure authorization.

28. Moreover, the authorities in Pale have reportedly decided to forbid departure by all remaining draft-age males. This has placed those persons who had already received exit authorization and surrendered their property in an especially difficult situation.

Conclusions and recommendations

29. The de facto Bosnian Serb authorities are very close to attaining their apparent aim of achieving "ethnic purity" in territory under their control. Non-Serbs have been subjected to unrelenting terrorization and discrimination, and it appears that virtually none wish to remain in northern Bosnia and Herzegovina.

30. Recent evidence suggests the de-facto authorities may stop somewhat short of achieving 100 per cent "ethnic purity". While local authorities in the Banja Luka area reap considerable revenue from fees imposed on persons applying to leave, the Pale authorities seem to have moved to slow down the

last stages of the exodus. Among their motives may be a wish to retain some non-Serbs for forced labour, and to have people for inclusion in negotiated population exchanges.

31. The increased operations of so-called criminal gangs in Banja Luka area must be noted. These gangs operate in a paramilitary style and one of their purposes appears to be to carry out "ethnic cleansing" without directly implicating the authorities. Nevertheless, a large amount of evidence suggests that the de facto authorities are personally and directly responsible for the massive human rights abuses which have taken place in northern Bosnia and Herzegovina. Such evidence includes the authorities' failure to take even minimal steps for the protection of victimized populations.

32. The de facto authorities continue relentlessly to compel non-Serbs to serve in forced-labour brigades. Numerous aspects of this forced labour, most notably the frequent deployment of civilian workers to front-line areas, violate international human rights and humanitarian law. 4/

33. The de facto authorities have violated from the very beginning their obligations under the cease-fire agreements of December 1994 to allow access of human rights monitors into territories controlled by them.

34. The Special Rapporteur, once again, calls upon the responsible authorities to cease immediately all practices of "ethnic cleansing", to provide adequate protection to all groups subjected to discrimination in the Banja Luka region and to facilitate the restitution of property. Furthermore, he urges that all those responsible for crimes be brought to justice and that conditions be created for the return in safety and dignity of all displaced persons and refugees.

35. The Special Rapporteur calls upon the international community to exercise all possible pressure to obtain access of United Nations civilian police (UNCIVPOL) officers and human rights monitors to territories controlled by the Bosnian Serb authorities.

Notes

1/ "Information notes on the former Yugoslavia", Office of the Special Envoy, UNHCR (Zagreb, 11 April 1995).

2/ Wherever the term "Bosnian Serb forces" or "Bosnian Serb de facto authorities" are used in this report, reference is being made, unless otherwise indicated, only to Bosnian Serbs who are in the military or civilian service of the de facto administration which has its political headquarters at Pale. In particular, no reference is intended, or to be implied, to any Bosnian Serbs who are loyal to the Republic of Bosnia and Herzegovina.

3/ "WHO's humanitarian assistance programme", World Health Organization, Zagreb Area Office, Report No. 35 (March 1995).

4/ For example, The Geneva Conventions of 12 August 1949 (common art. 3); Protocol II Additional to the Geneva Conventions (arts. 4(1), 4(2), 5(1)(e), 13, 17).